

**Subpart 222.73—Limitations Applicable to Contracts Performed on Guam**

SOURCE: 64 FR 52672, Sept. 30, 1999, unless otherwise noted.

**222.7300 Scope of subpart.**

This subpart—

(a) Implements Section 390 of the National Defense Authorization Act for Fiscal Year 1998 (Pub. L. 105-85); and

(b) Applies to contracts for base operations support on Guam that—

(1) Are awarded as a result of a competition conducted under OMB Circular A-76; and

(2) Are entered into or modified on or after November 18, 1997.

[72 FR 20764, Apr. 26, 2007]

**222.7301 Prohibition on use of non-immigrant aliens.**

(a) Any alien who is issued a visa or otherwise provided nonimmigrant status under Section 101(a)(15)(H)(ii) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)) is prohibited from performing work under a contract for base operations support on Guam.

(b) Lawfully admitted citizens of the freely associated states of the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau are not subject to the prohibition in paragraph (a) of this section.

[64 FR 52672, Sept. 30, 1999, as amended at 72 FR 20764, Apr. 26, 2007]

**222.7302 Contract clause.**

Use the clause at 252.222-7005, Prohibition on Use of Nonimmigrant Aliens—Guam, in solicitations and contracts subject to this subpart.

[72 FR 20764, Apr. 26, 2007]

**Subpart 222.74—Restrictions on the Use of Mandatory Arbitration Agreements**

SOURCE: 75 FR 27947, May 19, 2010, unless otherwise noted.

**222.7400 Scope of subpart.**

This subpart implements section 8116 of the Defense Appropriations Act for Fiscal Year 2010 (Pub. L. 111-118) and

similar sections in subsequent DoD appropriations acts.

[76 FR 38048, June 29, 2011]

**222.7401 Definition.**

*Covered subcontractor*, as used in this subpart, is defined in the clause at 252.222-7006, Restrictions on the Use of Mandatory Arbitration Agreements.

[75 FR 76297, Dec. 8, 2010]

**222.7402 Policy.**

(a) Departments and agencies are prohibited from using funds appropriated or otherwise made available by the Fiscal Year 2010 Defense Appropriations Act (Pub. L. 111-118) or subsequent DoD appropriations acts for any contract (including task or delivery orders and bilateral modifications adding new work) in excess of \$1 million, unless the contractor agrees not to—

(1) Enter into any agreement with any of its employees or independent contractors that requires, as a condition of employment, that the employee or independent contractor agree to resolve through arbitration—

(i) Any claim under title VII of the Civil Rights Act of 1964; or

(ii) Any tort related to or arising out of sexual assault or harassment, including assault and battery, intentional infliction of emotional distress, false imprisonment, or negligent hiring, supervision, or retention; or

(2) Take any action to enforce any provision of an existing agreement with an employee or independent contractor that mandates that the employee or independent contractor resolve through arbitration—

(i) Any claim under title VII of the Civil Rights Act of 1964; or

(ii) Any tort related to or arising out of sexual assault or harassment, including assault and battery, intentional infliction of emotional distress, false imprisonment, or negligent hiring, supervision, or retention.

(b) No funds appropriated or otherwise made available by the Fiscal Year 2010 Defense Appropriations Act (Pub. L. 111-118) or subsequent DoD appropriations acts may be expended unless the contractor certifies that it requires each covered subcontractor to agree not to enter into, and not to take any